IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11609 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAYANTIBHAI BABUBHAI VASAVA

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner No. 1

MR MR PRAJAPATI for Petitioner No. 1

MR RM CHAUHAN, AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE J.R.VORA

Date of decision: 15/10/2003

ORAL JUDGEMENT

1. By way of this Special Civil Application, the petitioner has challenged the order dated 07.07.2003

passed by the District Magistrate, Surat, against him, in exercise of powers under Section 3(1) of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "PASA Act") declaring the petitioner to be a "bootlegger" within the meaning of the PASA Act, and directing the detention of the petitioner. In pursuance of the said impugned order in this petition, the petitioner is detained in jail since 07.07.2003.

2. The grounds served upon the petitioner and as placed on record disclose that the detaining authority has placed reliance on the fact that five offences came to be registered against the petitioner on 19.2.2003, on 16.3.2003, on 26.3.2003 and on 6th of April 2003 under Sections 66(1)(b), 65(a)(e), 116(1)(b), 81 and 83 of the Bombay Prohibition Act, whereby foreign liquor in each case came to be seized by the police from the possession of the petitioner. From the above material, detaining authority came to the conclusion that this bootlegging activities of the petitioner was required to be prevented only by detention law as no other alternative was available with the detaining authority and hence the order impugned came to be passed against the petitioner.

3. Learned Advocate Mr. MR Prajapati for Mr. HR Prajapati for the petitioner and learned AGP Mr.R.M.Chauhan for the respondents were heard at length.

4. Out of various contentions raised on behalf of the petitioner, and controverted by the AGP for the respondents, from the rival contentions, it appears that the matter can be considered and be disposed of on the sole ground whether the further detention of the petitioner becomes bad in law on account of passing the order of detention with delay of about three months. The prompt action in the detention law is favoured by the law because it is the proximity and imminent necessity to prevent the objectionable activity is the crux of the detention law. Going through the grounds served upon the petitioner, it is clear that the proximity and live link between the objectionable activities of the petitioner as alleged and the passing of the detention order is snapped on account of delay of three months in passing the detention order vitiating the order itself, and consequently, the further detention of the petitioner becomes bad in law. The order impugned in this petition therefore is required to be quashed on the is ground alone.

5. In the result, this Special Civil Application is allowed with no order as to costs. The order impugned in

this Special Civil Application passed by the District Magistrate, Surat, on 07.07.2003 under Section 3(1) of the PASA Act against the petitioner is quashed and set aside. Petitioner is directed to be set at liberty forthwith if he is not required to be detained in jail for any other purpose. Rule made absolute. DS permitted.

(J.R. Vora, J.)

p.n.nair